Appl. No. 09/965,175 Attachment to Amendment Reply to Office Action of July 29, 2003

PATENT

Certificate of Mailing by Express Mail
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Date of Deposit: October 29, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" under 37 CFR 1.10 on the date indicated above and is addressed to:

Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

Depositor's Name: Margaret A. Connor

Depositor's Signature: Margaret A. Connos

Appl. No.

09/965,175

Confirmation No. 3943

Applicant

Linda S

Linda S. Thomashow et al.

Filed

September 27, 2001

TC/A.U.

1652

Examiner

Charles L. Patterson Jr.

Docket No.

0229.99

Customer No.

25278

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

DECLARATION OF DEPOSIT OF BIOLOGICAL MATERIAL IN ACCORDANCE WITH 35 U.S.C. 112

Linda S. Thomashow declares as follows:

She is a joint inventor with Shannon M. Delaney, Dmitri Mavrodi, and David M. Weller of the subject matter described and claimed in the above-identified application.

Statement of Deposit

Plasmids identified below were introduced into the designated host strains and the transformed strains were deposited under terms of the Budapest Treaty with Agricultural Research Service Culture Collection (NRRL) National Center for Agricultural Utilization Research, Agricultural Research Service, U.S. Department of Agriculture, 1815 North University Street, Peoria, Illinois 61604 USA on the date listed and given the following accession numbers:

<u>Host</u>	<u>Plasmid</u>	Accession No.	Date of Deposit
E. coli JM109	pUC2.9XP, clone 12	NRRL B-30341	10/06/2000
E. coli JM109	pUC2.9XP, clone 16	NRRL B-30342	10/06/2000
P. fluorescens 2-79	pUC2.9XP, clone 12	NRRL B-30343	10/06/2000
P. fluorescens 2-79	pUC2.9XP, clone 12	NRRL B-30344	10/06/2000
E. coli JM 109	pGEM-PHZO	NRRL B-30345	10/11/2000
E. coli JM109	pGEM-PHZO	NRRL B-30346	10/11/2000

The depository affords permanence of the deposits and ready accessibility thereto by the public if a patent is granted, under conditions which assure (a) that access to the cultures will be available during pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 CFR 1.14 and 35 U.S.C. 122, and (b) that all restrictions, if any, on the availability to the public of the cultures so deposited will be irrevocably removed upon the granting of a patent. Copies of the NRRL deposit receipts and viability statements are attached.

The undersigned declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed Optober 27, 2003 Suda S Thomasko.

Enclosures:

NRRL Budapest Treaty Deposit Receipts NRRL Budapest Treaty Viability Statements

and the Market

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSE OF PATENT PROCEDURES

INTERNATIONAL FORM

TO
USDA, ARS
Lab 36 Johnson Hall
Washington State University
Pullman, WA 99164-6430

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT issued pursuent to Rule 7.1 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

NAME AND ADDRESS.

OF DEPOSITOR			
I. IDENTIFICATION OF THE MICROORGANISM			
Identification reference given by the DEPOSITOR: Escherichia coli JK109p2.9xP-12	Accession number given by the INTERNATIONAL DEPOSITENT AUTHORITY: NRRL B-30341		
II. SCIENTIFIC DESCRIPTION AND/OR PROPOS	ED TAXONOMIC DESIGNATION		
The microorganism identified under I. abov	e was accompanied by:		
a scientific description			
X a proposed taxonomic designation			
(Mark with a cross where applicable)			
III. RECEIPT AND ACCEPTANCE			
This International Depositary Authority ac above, which was received by it on October	cepts the microorganism identified under 1. 6, 2000(date of the original deposit)1		
IV. RECEIPT OF REQUEST FOR CONVERSION			
to convert the original deposit to a depos	a was received by this International (data of the original deposit) and a request it under the Budapest Treaty was received by of request for conversion).		
V. INTERNATIONAL DEPOSITARY AUTHORITY			
Nam : Agricultural Research Culture Collection (NRRL) International Depositary Authority	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):		
Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Date: 10-24-00		

¹ Where Rule 6.4(d) applies, such date is the date on which the status of international d positary authority was acquired.

INTERNATIONAL FORM

TO USDA, ARS Lab 36 Johnson Hall Washington State University Pullman, WA 99164-6430

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT issued pursuant to Rule 7.1 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

9. 51. 501. OK		
I. IDENTIFICATION OF THE MICROORGANISM		
Identification reference given by the DEPOSITOR:	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:	
Escherichis coli JM109p2.9xP-16	NRRL B-30342	
II. SCIENTIFIC DESCRIPTION AND/OR PROPOS	ED TAXONOMIC DESIGNATION	
The microorganism identified under I. above	e was accompanied by:	
a scientific description		
x a proposed taxonomic designation		
(Mark with a cross where applicable)	·	
III. RECEIPT AND ACCEPTANCE		
This International Depositary Authority accepts the microorganism identified under I. above, which was received by it on October 6, 2000(date of the original deposit)1		
IV. RECEIPT OF REQUEST FOR CONVERSION		
The microorganism identified under I. above was received by this International Depositary Authority on (date of the original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on (date of receipt of request for conversion).		
V. INTERNATIONAL DEPOSITARY AUTHORITY		
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):	
Address: 1815 N. University Street Peoria, Illinois 61604 U.s.A.	Date: 10-24-00	

¹ Where Rule 6.4(d) applies, such date is the date on which the status of international depositary authority was acquired.

INTERNATIONAL FORM

TO
USDA, ARS
Lab 36 Johnson Hall
Washington State University
Pullman, WA 99164-6430

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT issued pursuant to Rule 7.1 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

Vr DaeOGITOR			
1. IDENTIFICATION OF THE MICROORGANISM			
Identification reference given by the DEPOSITOR:	Accession number gi INTERNATIONAL DEPOS		
Pasudomonas fluorescens 2-79p2.9xP- 12(1)	NRRL B-30343		
II. SCIENTIFIC DESCRIPTION AND/OR PROPOS	ED TAXONOMIC DESIGNA	Tion	
The microorganism identified under I. abov	e was accompanied by		
a scientific description			
a proposed taxonomic designation	X a proposed taxonomic designation		
(Mark with a cross where applicable)			
III. RECEIPT AND ACCEPTANCE	III. RECEIPT AND ACCEPTANCE		
This International Depositary Authority acabove, which was received by it on October			
IV. RECEIPT OF REQUEST FOR CONVERSION	·		
The microorganism identified under I. above Depositary Authority on to convert the original deposit to a deposit on (date of receipt	(date of the origina	deposit) and a request Treaty was received by	
V. INTERNATIONAL DEPOSITARY AUTHORITY			
Name: Agricultural Research Culture Collection (NREL) International Depositary Authority	to represent the In	son(s) having the power ternational Depositary horized official(s):	
Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Date:	10-24.00	

Where Rule 6.4(d) applies, such date is the date on which the status of international d positary authority was acquired.

INTERNATIONAL FORM

TO
USDA, ARS
Lab 36 Johnson Hall
Washington State University
Pullman, WA 99164-6430

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT issued pursuant to Rul 7.1 by th INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

OF DEPOSITOR	
I. IDENTIFICATION OF THE MICROORGANISM	
Identification reference given by the DEPOSITOR:	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:
Pseudomonas fluorescens 2-79p2.9xp- 12(2)	NRRL B-30344
II. SCIENTIFIC DESCRIPTION AND/OR PROPOS	ED TAXOROHIC DESIGNATION
Th microorganism identified under I. abov	e was accompanied by:
a scientific description	
a proposed taxonomic designation	
(Mark with a cross where applicable)	
III. RECEIPT AND ACCEPTANCE	
This International Depositary Authority ac above, which was received by it on October	cepts the microorganism identified under I. 6, 2000(date of the original deposit)1
IV. RECEIPT OF REQUEST FOR CONVERSION	
to convert the original deposit to a depos	was received by this International (date of the original deposit) and a request it under the Budapest Treaty was received by of request for conversion).
V. INTERNATIONAL DEPOSITARY AUTHORITY	
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):
Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Date: [0-24-00

Where Rule 6.4(d) applies, such date is the date on which the status of international depositary auth rity was acquired.

INTERNATIONAL FORM

TO
USDA, ARS
Lab 36 Johnson Hall
Washington State University
Pullman, WA 99164-6430

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT issued pursuant to Rule 7.1 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

OF DEPOSITOR			_
I. IDENTIFICATION OF THE MICROCRGANISM			
Identification reference given by the DEPOSITOR:	Accession number gi INTERNATIONAL DEPOS		-
Escherichia coli JM109(pGEM-PH20)	NRRL 8-30345		
II. SCIENTIFIC DESCRIPTION AND/OR PROPOS	ED TAXONOMIC DESIGNA	Tion	-
The microorganism identified under I. abov	e was accompanied by	•	
a scientific description			;
a proposed taxonomic designation			
(Mark with a cross where applicable)			•
III. RECEIPT AND ACCEPTANCE			
This International Depositary Authority ac above, which was received by it on October			
IV. RECEIPT OF REQUEST FOR CONVERSION			
to convert the original deposit to a capeo	(date of the origina	deposit) and a request	ing entit
V. INTERNATIONAL DEPOSITARY AUTHORITY			
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority	to represent the In	son(s) having the power ternational Depositary norized official(s):	
Address: 1815 N. University Street Paoria, Illinois 61604 U.S.A.	Dates	10-24-00	

Where Rule 6.4(d) applies, such date is the date on which the status of international depositary authority was acquired.

INTERNATIONAL FORM

TO
USDA, ARS
Lab 36 Johnson Hall
Washington State University
Pullman, WA 99164-6430

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT issued pursuant to Rule 7.1 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

NAME AND ADDRESS OF DEPOSITOR

OF DEPOSITOR		
1. IDENTIFICATION OF THE MICROORGANISM		
Identification reference given by the DEPOSITOR:	Accession number give	rary authority:
Bacherichia coli JM109(pGEM-PH20(2))	NRRL E-30346	
II. SCIENTIFIC DESCRIPTION AND/OR PROPOS	ED TAXONOMIC DESIGNACI	
The microorganism identified under I. abov	e was accompanied by	
a scientific description		
x a proposed taxonomic designation		
(Mark with a cross where applicable)		
III. RECEIPT AND ACCEPTANCE		
This International Depositary Authority acabove, which was received by it on October		
IV. RECEIPT OF REQUEST FOR CONVERSION		
The microorganism identified under I. above was received by this International Depositary Authority on (date of the original deposit) and a request to convert the original deposit to a deposit under the Sudapest Treaty was received by it on (date of receipt of request for conversion).		
V. INTERNATIONAL DEPOSITARY AUTHORITY		
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority		on(s) having the power prized official(s):
Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Date:	10-24-00

Where Rule 6.4(d) applies, such date is the date on which the status of international depositary authority was acquired.

INTERNATIONAL FORM

TO

USDA, ARS
Lab 36 Johnson Hall
Washington State University
Pullman, WA 99164-6430

YIABILITY STATEMENT

issued pursuant to Rule 10.2 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

NAME AND ADDRESS OF THE PARTY TO WHOM THE VIABILITY STATEMENT IS ISSUED

THE VIABILITY STATEMENT IS ISSUED		
I. DEPOSITOR	II. IDENTIFICATION OF THE MICROORGANISM	
Name: USDA, ARS Lab 36 Johnson Hall Address: Washington State University Pullman, WA 99164-6430	Depositor's taxonomic designation and accession number given by the INTERMATIONAL DEPOSITARY AUTHORITY: Escherichia coli 1982L B-30341	
	Date of: October 5, 2000 X 2 Original Deposit 2 New Deposit 2 Repropagation of Original Deposit	
III. (a) VIABILITY STATEMENT	· · · · · · · · · · · · · · · · · · ·	
Deposit was found: X Viable Nonviable on October 7, 2000 (Date) International Depositary Authority's preparation was found viable on October 23, 2000 (Date)		
III. (b) DEPOSITOR'S EQUIVALENCY DECLARA	TION	
Depositor determined the International Depositary Authority's preparation was		
Z Equivalent : Not equivalent to de Signature of Depositor Zudas The	posit on Normbar (6 3000 (Date)	
IV. CORDITIONS UNDER WHICH THE VIABILITY	TEST WAS PERFORMED (Depositors/Depositary)	
V. INTERNATIONAL DEPOSITARY AUTHORITY		
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):	
ddress: 1815 N. University Street Peoria, Illinois 61604 U.S.A. Date: 10-24-00		

Indicate the date of the original deposit or when a new deposit has been made.

Mark with a cross the applicable box.

^{&#}x27; In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

^{*} Fill in it the information has been requested.

INTERNATIONAL FORM

TO

VIABILITY STATEMENT

USDA, ARS
Lab 36 Johnson Hall
Washington State University
Pullman, WA 99164-6430

issued pursuant to Rule 10.2 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

I. DEPOSITO	STHERMAN TO TOOOD	II. IDENTIFICATION	OF THE MICROORGANISM
Lal	OA, RRS 3 36 Johnson Hall shington State University liman, WA 99164-6430	Date of: October 6	ven by the TTARY AUTHORITY: NEAL B-30342
III. (a) V	IABILITY STATEMENT		
	found: X Viable Nonviab		
III. (b) D	SPOSITOR'S EQUIVALENCY DECLARA	TION	
2 Equival	ent 1 Not equivalent to de	posit on Handard	
	ONS UNDER WHICH THE VIABILITY	THE RESERVE OF THE PARTY OF THE PROPERTY AND THE	Dapositors/Depositary)
V. INTERN	ATIONAL DEPOSITARY AUTHORITY		
Name: Agricu	ltural Research Culture ection (NRRL) ational Depositary Authority	to represent the I	rson(s) having the power nternational Depositary chorized official(s):
Address: 181	5 N. University Street ris, Illinois 61604 U.S.A.	Date:	10-24-00

¹ Indicate the date of the original deposit or when a new deposit has been made.

Mark with a cross the applicable box.
 In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.
 Fill in if the information has been requested.

INTERNATIONAL FORM

TO

VIABILITY STATEMENT

USDA, ARS Lab 36 Johnson Hall Washington State University Pullman, WA 99164-6430

issu d pursuant to Rule 10.2 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

NAME AND ADDRESS OF THE PARTY TO WHOM

I. DEPOSITOR II. IDENTIFICATION	· · · · · · · · · · · · · · · · · · ·
TOTAL	OF THE MICROORGANISM
Name: USDA, ARS Lab 36 Johnson Hall Address: Washington State University Pullman, WA 59164-6430 Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: Pseudomonas Flooresters West 8-30363	
Date of: October 6. X 2 Original Deposit New Deposit 2 Repropagation	
III. (a) VIABILITY STATEMENT	
Deposit was found: Viable Nonviable on October 7, 2000 International Depositary Authority's preparation was found viab	
III. (b) DEFOSITOR'S EQUIVALENCY DECLARATION	:
Depositor determined the International Depositary Authority's position of Depositor Andrew Signature of Depositor Andrew Stromas for	
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (De	spositors/Dapositary)
V. INTERNATIONAL DEPOSITARY AUTHORITY	
International Depositary Authority Authority or of authority	on(s) having the power ernational Depositary origand official(s):
Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A. Date:	brzy 10-24-ce

Mark with a cross the applicable box.
In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

* Fill in if the information has been requested.

Indicate the date of the original deposit or when a new deposit has been made.

INTERNATIONAL FORM

TO

USDA, ARS Lab 36 Johnson Hall Washington State University Pullman, WA 99164-6430

VIABILITY STATEMENT

issued pursuant to Rule 10.2 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

THE VIABILITY STATEMENT IS ISSUED		
I. DEPOSITOR	II. IDENTIFICATION OF THE MI	CROORGANISM
Name: USDA, ARS Lab 36 Johnson Hall Address: Washington State University Pullman, WA 99164-6430	Depositor's taxonomic designs accession number given by the INTERNATIONAL DEPOSITARY AUTE Pseudomonas fluorospans.	ORITY:
	Date of: October 5, 2000 X 'Original Deposit New Deposit Repropagation of Original) Remodit
Approximately and the second s		. Depotit
III. (a) VIABILITY STATEMENT		
D posit was found: X Viable Nonvi	able on October 7, 2000 (Date)	
International Depositary Authority's pre	paration was found viable on Octo	oer 23, 2000(Date) ³
III. (b) DEPOSITOR'S EQUIVALENCY DECLA	RATION	
Depositor determined the International D	spositary Authority's preparation	l Was
2 Equivalent 2 Not equivalent to	deposit on Mossicher/16,200	(Date)
Signature of Depositor Musical Ha	maskow	
TV. CONDITIONS UNDER WHICH THE VIASILIT	TEST WAS DEDUCTIONED (Margaline)	
V. INTERNATIONAL DEPOSITARY AUTHORITY		
Name: Agricultural Research Culture Collection (MRRI) International Depositary Authority	Signature(s) of person(s) havi to represent the International Authority or of authorized off	Depositary
Address: 1815 N. University Street Peoria, Illinois 61604 U.s.A.	Date: 10-24-00	

Indicate the date of the original deposit or when a new deposit has been made.

Hark with a cross the applicable box.

In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test. * Fill in if the information has been requested.

INTERNATIONAL FORM

TO

USDA, ARS Lab 36 Johnson Hall Washington State University Pullman, WA 99164-6430

VIABILITY STATEMENT

issued pursuant to Rule 10.2 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the pottom of this page

THE VIABILITY STATEMENT IS ISSUED		
I. DEPOSITOR	II. IDENTIFICATION OF THE MICROORGANISM	
Name: USDA, ARS Lab 36 Johnson Hall Address: Washington State University Pullman, WA 99164-6430	Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: Escherichia coli NRRL B-30345	
	Date of: October 11, 2000 X 2 Original Deposit 2 New Deposit 2 Repropagation of Original Deposit	
III. (a) VIABILITY STATEMENT		
Deposit was found: Viable Nonviable on October 12, 2000 (Date) International Depositary Authority's preparation was found visible on October 23, 2000(Date)		
III. (b) DEPOSITOR'S EQUIVALENCY DECLARA	TION	
Depositor determined the International Depositary Authority's preparation was 2 Equivalent 2 Not equivalent to deposit on November 16, 2000 (Date) Signature of Depositor Apple 1 Thomasium		
IV. CONDITIONS UNDER WHICH THE VIABILITY	TEST WAS PERFORMED (Depositors/Depository)	
V. INTERNATIONAL DEPOSITARY AUTHORITY		
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):	
Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Date: 10-24-0	

Indicate the date of the original deposit or when a new deposit has been made.

Herk with a cross the applicable box.

In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test. Fill in if the information has been requested.

5093359581;

INTERNATIONAL FORM

TO

USDA, ARS Lab 36 Johnson Hall Washington State University Pullman, WA 99164-6430

VIABILITY STATEMENT

issued pursuant t Rule 10.2 by the INTERNATIONAL DEPOSITARY AUTHORITY identified at the bottom of this page

THE VIABI	LITY STATEMENT IS ISSUED		·
I. DEPOS	ITOR	II. IDENTIFICATION	OF THE MICROORGANISM
Name: Address:	USDA, ARS Lab 36 Johnson Hall Washington State University Pullman, WA 99164-6430	Depositor's taxonom accession number gi INTERNATIONAL DEPOS	ic designation and ven by the
		Data of: October 1 X 'Original Depos 2 New Deposit 2 Repropagation	the first of the f
III. (A) VIABILITY STATEMENT			
Deposit was found: K Viable Nonviable on October 12, 2000 (Date)			
International Depositary Authority's preparation was found via			ole on October 23, 2000{Date}
III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION			
Depositor determined the International Depositary Authority's			
Signature of Depositor Junda Stamashow			16,2000 (Date)
	TIONS ONDER WHICH THE VIABILITY	-1851/9.7AS =V51/V0220	Specificas/Repositiony
V. INTERNATIONAL DEPOSITARY AUTHORITY			
Co Inte	coultural Research Culture cliection (NRRL) ernational Depositary Authority	Signature(s) of per- to represent the Int Authority or of muth	on(s) having the power ernational Depositary orized official(s):
Address: 1	Pacria, Illinois 61604 U.S.A.	Date:	0-24-00

¹ Indicate the date of the original deposit or when a new deposit has been made.
2 Mark with a cross the applicable box.
3 In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.
4 Fill in if the information has boon requested.